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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/404,704	09/23/1999	TOMOAKI HOKAO	12994	8700

23389 7590 11/20/2002

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EXAMINER

NGUYEN, DUNG X

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/404,704

Applicant(s)

HOKAO, TOMOAKI

Examiner

Dung X Nguyen

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 September 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 - 63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 - 35 and 44 - 63 is/are allowed.
- 6) ☒ Claim(s) 1 - 8 and 36 - 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

2. Claims 1 – 8 and 36 – 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the statement of “based on whether or not a speech signal or data is contained in the signal received by the antenna and the radio unit” makes the reader to confuse about there is a speech signal or data.

Regarding claim 36, the limitations are analyzed in the same manner as claim 1.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

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4. **Claims 1 and 36 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Honda (US patent # 5,970,084, and further in view of Iwakiri (US patent # 5,889,815).

Regarding claim 1, Honda discloses (figure 1):

Antenna 1 and high-frequency circuitry 2 for receiving a signal;

Finger receivers 4, 9, and 14 for inverse calculations the signal received by the antenna 1 and high-frequency circuit 2 (column 5, lines 20 – 54);

Synthesizer 20 for synthesizing signals from the finger receivers;

CPU 22 for controlling power on and off of the finger receivers based on the measurement and detection results of the power measure 19 and the error detector 21 (column 5, lines 30 - 34).

The reference of Honda differs from the instant claimed invention that it does not teach a means for controlling a number of finger receivers based on whether a speech signal or data is contained in the received signal and inversely diffused by a plurality of finger receivers. However, Iwakiri discloses a control part, which controls the plurality of fingers on the basis of channel state (speech) and orthogonal channel allocation (high-data-rate data) information (column 2, line 61 to column 3, line 57). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement Iwakiri into Honda to save the consumed power.

Regarding claim 36, the limitations are analyzed in the same manner as claim 1.

***Allowable Subject Matter***

5. **Claims 2 – 8 and 37 – 43 are objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. **Claims 9 – 35 and 44 - 63 are allowed.** The following is a statement of reasons for the indication of allowable subject matter:

Regarding to the claimed inventions, the prior art of record fails to show or render obvious of a receiving circuit has a speech/no-speech signal detector for detecting whether there is a speech signal or not based on data inversely diffused by finger receivers, and a clock controller for controlling operation of the finger receivers based on detected result from the speech/no-speech detector.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tiedemann, Jr. et al. (U.S. Patent No. 6,216,004 B1) discloses a cellular communication system with common channel soft handoff and associated method.

Mimura (U.S. Patent No. 6,021,123) discloses a cellular radio system using CDMA scheme.

Blakeney, II et al. (U.S. Patent No. 5,267,261) discloses a method for a mobile station assisted soft handoff in a CDMA cellular communication system.


### *Contact Information*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung X. Nguyen whose telephone number is (703) 305-4892. The examiner can normally be reached on Monday through Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Chi Pham can be reached on (703) 305-4378. The fax number for this group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

DXN  
October 19, 2002

  
**DON N. VO**  
**PRIMARY EXAMINER**